

REMARKS/ARGUMENTS

Claims 1-3, 5-13, and 15-22 are presented for consideration by the Examiner. Of these claims, original independent claims 1 and 13 have been amended, dependent claims 4 and 14 have been canceled and new claims 21-22 have been added.

Non-final Rejections:

35 USC § 112- The Examiner has rejected dependent claims 5 and 15 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have claimed a storage location sized to hold a single standard sized propane cylinder without defining which standard cylinder has been selected nor specifying what those dimensions are.

35 USC § 102(b) - The Examiner has rejected claims 1-6 and 8-20 (independent claims 1 and 13 and dependent claims 2-6, 8-12, and 14-20) as being anticipated by US Pat. No. 3,122,401 to Johnson which discloses all the claimed elements of the invention.

The Examiner has rejected claims 1-3, 5-6, 8-13, and 15-20 as being anticipated by US Pat. No. 1,885,324 to Bjornson which discloses all the claimed elements of the invention.

The Examiner has rejected claims 1-3, 5-6, 8-11, 13, 15-18, and 20 as being anticipated by US Pat. No. 4,621,746 to Reichle et al. which discloses all the claimed elements of the invention.

35 USC § 103(a)- The Examiner has rejected claims 1-20 under 35 USC § 102(b) or alternatively as obvious in view of Johnson where Johnson discloses all of the elements of claims 1-6 and 8-20 and further as to claim 7 discloses:

(Re: cl 7) wherein dividers each include a horizontal beam extending from an upper portion of vertical beam radially inwardly (112, Fig. 2) and suggests a vertical beam adjacent a periphery of rotator assembly (112a, Fig. 2).

The Examiner suggests that a rod is suggestive of being a subset of a beam or a recognized equivalent of a beam. Therefore, it would have been obvious for Johnson to

substitute a rod with a beam as an easily fabricated structural and functional equivalent and come up with the instant invention.

The Examiner has rejected claims 1-20 as obvious and unpatentable over Bjornson in view of US Pat. No. 4,498,603 to Wittenborg wherein Bjornson teaches the elements of Applicants' invention except the divider structure. The Examiner relies on Wittenborg for the teachings of:

(Re: cl 4,14) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 Fig. 1).

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 Fig. 3).

The Examiner states it would have been obvious for Bjornson to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention.

The Examiner also states that it would have been obvious for Bjornson to stack a plurality of trays to increase capacity and provide customers a variety in products purchased as taught by Wittenborg and come up with the instant invention.

The Examiner has rejected claims 1-20 as being unpatentable over Reichle et al in view of Wittenborg wherein Reichle et al. discloses the elements of Applicants' invention except the divider structure. The Examiner relies on Wittenborg for the teachings of:

(Re: cl 4,14) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 Fig. 1).

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 Fig. 3).

The Examiner states it would have been obvious for Reichle et al. to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention.

The Examiner also states that it would have been obvious for Reichle et al. to stack a plurality of trays to increase capacity and provide customers a variety in products purchased as taught by Wittenborg and come up with the instant invention.

The Examiner has rejected claims 1-20 as being unpatentable over Johnson in view of Wittenborg wherein Johnson discloses the elements of Applicants' invention except the divider structure. The Examiner relies on Wittenborg for the teachings of:

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly (11, 14 Fig. 3).

The Examiner states that it would have been obvious for Johnson to substitute the vertical rods with beams to simplify fabrications as taught by Wittenborg and come up with the instant invention.

Remarks and Arguments:

Applicants' invention is a novel vending machine preferably for vending new and used propane tank assemblies. The novel vending machine comprises at least two carousels rotatable within a vending enclosure. Each carousel has a plurality of angularly spaced storage locations for releasable retaining a vendable product. When mounted to a central shaft for rotation, the carousels are mounted such that the storage locations of one carousel are vertically staggered or offset from a second carousel. In this way, a user is prevented from accessing more than one storage space per usage. The carousels are indexed so that upon the opening of the vending door, an indexing assembly rotates the mounted carousels to provide full access to the next available storage location while at least partially blocking access to both vertically and horizontally juxtaposed storage locations. Once the propane tank assembly has been removed, a used propane tank assembly may be returned and stored within the now empty storage location.

In sharp contrast to Applicants' invention as it is now more clearly set forth in

independent claims 1, 13 and 21, the Johnson patent teaches a universal vending apparatus that dispenses food. The Johnson vending machine provides multiple shelving and each shelf rotates separately from other shelves. The carousel that supports the shelving rotates and advances each shelf AFTER a product has been removed from the storage area.

Johnson further differs from Applicants' invention where Johnson does not teach or claim storage of empty propane tanks or storage for any returnable product. Nor does Johnson teach or suggest vertically staggering the storage units, rather Johnson provides a complex anti-pilfering mechanism 76.

Reichle et al., like Johnson does not teach or suggest storage of used or returnable goods. Like Johnson, Reichle et al. does not provide multiple vertically staggered shelving. Instead, Reichle et al. provides a single removable carousel for the purpose of replacing objects sold. This single removable and replaceable carousel rotates by a lever and the user opens the door.

Bjornson is similar to Reichle et al. by providing a single carousel. Bjornson, like Reichle et al., does not teach or suggest multiple carousel having vertically staggered storage spaces nor provides storage of used or returnable goods. Like Johnson and Reichle et al., the carousel of Bjornson is rotated by the movement of a lever.

Wittenborg admittedly provides multiple carousels, but like Johnson, these carousels are not vertically staggered. The Wittenborg carousels rotate individually and open individually where opening the door does NOT trigger rotation of the carousel. Wittenborg does not accept storage of used or returnable goods.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art.

By amending the application, Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

CONCLUSION

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submits that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicants request that the Examiner contact the undersigned at (248) 593-3019.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 12-2136 for any fee which may be due.